

EXHIBIT B

CAUSE NO. D-1-GN-12-001521

**BCG ATTORNEY SEARCH, INC. and
PROFESSIONAL AUTHORITY, INC.
d/b/a LEGAL AUTHORITY,**

Plaintiffs,

v.

ROBERT KINNEY

Defendant.

IN THE DISTRICT COURT

OF TRAVIS COUNTY, TEXAS

353RD JUDICIAL DISTRICT

Filed in The District Court
of Travis County, Texas

NOV 09 2012 BP

At
Amalia Rodriguez-Mendoza, Clerk

**ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANT'S MOTION TO DISMISS**

Defendant Robert Kinney's First Amended Motion to Dismiss and For All Relief Provided by Section 27.001, *et seq.* of the Texas Civil Practice and Remedies Code came to be heard on the 3rd day of July 2012 before the above-entitled Court, Hon. Gary Harger presiding. Dale Roberts and Daniel Byrne appeared on behalf of Plaintiffs; Gregg Teeter and Robert Kinney appeared on behalf of Defendant. After consideration of the pleadings, argument of counsel, and submissions tendered to the Court for its consideration,

THE COURT FINDS:

1. Defendant has shown by a preponderance of the evidence that Plaintiffs' claims under the Lanham Act, 15 U.S.C. § 1051 *et seq.*, and other claims of libel or disparagement are based on, relate to, or are in response to Defendant's exercise of his right of free speech under TEX. CIV. PRAC. & REM. CODE §§ 27.001 and 27.005(b);
2. Plaintiffs have failed to establish by clear and specific evidence a *prima facie* case for the elements of their claims under the Lanham Act, 15 U.S.C. § 1051 *et seq.*, and other claims of libel or disparagement;

3. Plaintiffs' claims under the Lanham Act, 15 U.S.C. § 1051 *et seq.*, and other claims of libel or disparagement were brought to deter or prevent Defendant from exercising his constitutional rights and for the improper purpose of harassing Defendant, imposing costs of defense on Defendant, and increasing the cost of litigation between the parties;
4. Considering previous litigation instituted by Plaintiffs and/or their owner and affiliates against Defendant, and considering that Plaintiffs' claims under the Lanham Act, 15 U.S.C. § 1051 *et seq.*, and other claims of libel or disparagement were brought to deter or prevent Defendant from exercising his constitutional rights and for the improper purpose of harassing Defendant, imposing costs of defense on Defendant, and increasing the cost of litigation between the parties, sanctions in the amount of \$75,000 are necessary to deter Plaintiffs from bringing similar actions described in TEX. CIV. PRAC. & REM. CODE, Ch. 27;
5. Plaintiffs' claims for breach of contract and breach of fiduciary duty stem from an alleged employment agreement between Defendant and Plaintiff BCG Attorney Search, Inc., and the validity of this agreement is a question of fact to be determined by the trier of fact; and
6. Plaintiffs' claims for breach of contract and breach of fiduciary duty were timely filed less than four (4) years from the date of the speech at issue in this case (May 29, 2008), and within the Texas Statute of Limitations.

Accordingly, THE COURT ORDERS:

1. Defendant's motion to dismiss Plaintiffs' claims under the Lanham Act, 15 U.S.C. § 1051 *et seq.*, and other claims of libel or disparagement is hereby

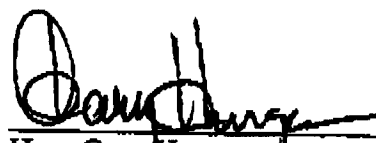
GRANTED and these claims are hereby DISMISSED with prejudice under TEX.

CIV. PRAC. & REM. CODE §§ 27.001 and 27.005;

2. Defendant's Motion to Dismiss Plaintiffs' Breach of Contract and Breach of Fiduciary Duty claims is hereby DENIED;
3. Plaintiffs, jointly and severally, are hereby ORDERED to pay sanctions to Defendant in the amount of \$75,000 under TEX. CIV. PRAC. & REM. CODE § 27.009(a)(2); and
4. Defendant may seek and present evidence of costs and attorneys fees pursuant to TEX. CIV. PRAC. & REM. CODE §§ 27.009(a)(1)

IT IS SO ORDERED.

Dated: November 9, 2012
~~July~~ _____, 2012



Hon. Gary Harger
353rd Judicial District Court
Travis County, Texas